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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

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11 FREDRICK J. BENSON,

12 Petitioner,

13 v.

14 JAMES DZURENDA, et al.,

15 Respondents.

16 Case No. 2:19-cv-01063-RFB-NJK

ORDER

17 Petitioner has paid the filing fee. The Court has reviewed the Petition under Rule 4 of Rules
18 Governing Section 2254 Cases in the United States District Courts. Petitioner needs to show cause
19 why the Court should not dismiss this action.

20 Petitioner is challenging his custody pursuant to a judgment of conviction of the Eighth
21 Judicial District Court of the State of Nevada, Case No. 00C168372-3. Petitioner challenged his
22 custody pursuant to the same judgment of conviction in Benson v. Budge, No. 3:05-cv-00464-
23 GMN-VPC, 2015 WL 1442293 (D. Nev. Mar. 30, 2015). The Court denied that Petition on its
24 merits, and the Court of Appeals denied a Certificate of Appealability. Consequently, the current
25 Petition is a second or successive Petition under 28 U.S.C. § 2244(b). Petitioner must first obtain
26 authorization from the Court of Appeals before this Court can consider his Petition. 28 U.S.C. §
27 2244(b)(3). Nothing in the documents that Petitioner has filed indicates that he has received such
28 authorization. Petitioner will need to show cause why the Court should not dismiss the action.

1 Petitioner has filed a Motion for Appointment of Counsel (ECF No. 2). The Court denies
2 this Motion because it appears that the Court of Appeals has not yet authorized Petitioner to proceed
3 with this action. If Petitioner can show authorization, then he may renew this Motion.

4 **IT THEREFORE IS ORDERED** that the Clerk of Court shall file the Petition for a Writ
5 of Habeas Corpus pursuant to 28 U.S.C. § 2254.

6 **IT FURTHER IS ORDERED** that Petitioner's Motion for Appointment of Counsel (ECF
7 No. 2) is **DENIED**.

8 **IT FURTHER IS ORDERED** that Petitioner will have thirty (30) days from the date of
9 entry of this Order to show cause why this action should not be dismissed as a second or successive
10 Petition. Failure to comply will result in the dismissal of this action.

11 DATED: November 22, 2019.

12 
13 RICHARD F. BOULWARE, II
14 United States District Judge

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